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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE  
ANTITRUST LITIGATION  
  
THIS DOCUMENT RELATES TO:  
  
ALL ACTIONS

MASTER DOCKET NO. 11-CV-2509-LHK

**MOTION TO SHORTEN TIME ON  
PLAINTIFFS' MOTION TO COMPEL**

Pursuant to Civil Local Rule 6-3, Plaintiffs hereby move for an order shortening time on Plaintiffs' accompanying Motion to Compel Google Documents ("Motion to Compel").

Plaintiffs request that the Court modify the briefing and hearing schedule as follows:

- (1) Require Google to file its opposition to the Motion to Compel by January 23, 2013, and limit Google to eight pages of briefing;
- (2) Prohibit Plaintiffs from filing a reply to their Motion to Compel; and
- (3) Take the hearing off calendar and rule on the papers submitted.

This briefing schedule would permit Plaintiffs to depose senior Google and Intuit executives as scheduled on a full documentary record.

#### **I. Reasons For The Requested Shortening of Time**

After months of negotiations among Plaintiffs, Google, and Intuit, Google and Intuit agreed to schedule the following four depositions: Laszlo Bock, Google HR executive, for January 10, 2013; Shona Brown, Google HR executive, for January 30, 2013; Bill Campbell, Intuit Chairman and Apple Board member, for February 5, 2013; and Eric Schmidt, Google's former CEO, for February 21, 2013. Declaration of Dean M. Harvey ("Harvey Decl.") ¶ 16.

On December 28, 2012 (the Friday between the Christmas and New Year's holidays), Google produced a privilege log concerning Laszlo Bock's documents. Harvey Decl. ¶ 17. The log included 2,281 entries. *Id.* and Ex. F. On January 7, 2012, Google produced a privilege log concerning Shona Brown's documents that contained an additional 579 entries. *Id.* and Ex. G. Also on January 7, Google produced a privilege log for Eric Schmidt that included another 72 entries. *Id.* and Ex. H.

On January 7, 2013, Plaintiffs conferred with Google regarding entries on these logs that described withheld and redacted communications with Bill Campbell at his intuit.com email address, a topic the parties had earlier discussed many times without reaching agreement. *Id.* ¶ 18. Plaintiffs explained that, unless Google produced the documents at issue, Plaintiffs would move to compel. *Id.* Plaintiffs explained the basis of the motion to compel. *Id.* Google refused to produce the documents. *Id.* In light of the fact that Mr. Bock's deposition was scheduled to occur three days later, Plaintiffs asked if Google would agree to make Mr. Bock available for a

1 deposition again, in the event Plaintiffs prevailed on a motion to compel. *Id.* Google refused. *Id.*  
 2 Instead, on January 9, Google insisted on postponing the deposition rather than holding it open.  
 3 *Id.*

4 Later that day, on January 9, Plaintiffs asked whether Google would stipulate to an  
 5 abbreviated briefing schedule pursuant to Civil Local Rule 6-2, whereby Plaintiffs would file a  
 6 shortened brief by January 14, 2013; Google would file a shortened brief of the same page length  
 7 by January 18, 2013; and Plaintiffs would forgo a reply. *Id.* ¶ 19. Plaintiffs also asked whether  
 8 Google would jointly request that the hearing occur on January 22, 2013, in order to create  
 9 minimal disruption to the deposition schedule. *Id.* Google's counsel asked for a list of the  
 10 privilege log entries at issue, and Plaintiffs' counsel provided it on January 10. *Id.* and Ex. O.  
 11 Thereafter, Google did not respond to Plaintiffs' request for a stipulated abbreviated schedule,  
 12 requiring the instant motion. *Id.* ¶ 19.

## 13 **II. Prejudice To Plaintiffs If The Court Does Not Shorten Time On The Motion**

## 14 **To Compel**

15 If the Court does not shorten time on the motion to compel, the earliest hearing date  
 16 pursuant to Civil Local Rule 7-2 would be February 26, 2013. This would require the relevant  
 17 depositions already scheduled to occur in the interim (Brown on January 30, Campbell on  
 18 February 4, and Schmidt on February 21) either to be postponed or take place on the scheduled  
 19 dates without the benefit of the underlying documents Plaintiffs maintain were improperly  
 20 withheld or redacted. Given the significance of these witnesses, delay may substantially  
 21 prejudice Plaintiffs in light of the impending fact discovery cutoff on March 29, 2013 (slightly  
 22 more than one month after the current hearing date on Plaintiffs' Motion to Compel). *See* Dkt.  
 23 183.

## 24 **III. The Proposed Time Modification Would Not Impact The Case Schedule**

25 The proposed time modification would not impact the case schedule. To the contrary, the  
 26 requested shortening is intended to permit the case to proceed as scheduled, in light of the  
 27 March 29, 2013 fact discovery cutoff.  
 28

1           **IV.    Conclusion**

2           Accordingly, for the reasons set forth above, Plaintiffs respectfully request that the Court  
3 grant Plaintiffs' Motion, shorten the time and briefing on Plaintiffs' Motion to Compel, take the  
4 matter off calendar, and rule on the papers submitted or schedule hearing at an early practicable  
5 date convenient to the Court.

6  
7 Dated: January 16, 2013

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8  
9 By: /s/ Dean M. Harvey  
Dean M. Harvey

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